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No. 963--Certiorari
No. 716--Misc., Mandamus

IN THE

SUPREME COURT OF THE UNITED STATES

1957-1958 Term

Henry Merritt Farnum,	Petitioner
v.	
State of Connecticut	
and	
New York State Department of Mental Hygiene,	Appellees

PETITIONER'S REPLY IN SUPPORT OF MANDAMUS AND CERTIORARI

Henry Merritt Farnum,
Petitioner

70 W. 46th Street,
New York 36, New York

May 28, 1958

IN THE

SUPREME COURT OF THE UNITED STATES

1957-1958 Term

No. 963--Certiorari
No. 716--Misc., Mandamus

Henry Merritt Farnum, Petitioner	*
v.	*
State of Connecticut	*
and	*
New York State Department of Mental Hygiene, Appellees	*

PETITIONER'S REPLY IN SUPPORT OF

MANDAMUS AND CERTIORARI

Federal Questions: the Ninth Amendment, and the Declaration of Independence

The only opposition to the petitions for mandamus and certiorari, is filed on behalf of appellee New York State Department of Mental Hygiene. That brief presents a single point: "no substantial federal question...." Yet the brief lacks a single reference to the only federal constitutional documents invoked by the petitioner. (Please note the petitions, page 7)

Federal Questions, New and Substantial

Five of the six federal questions present new issues before this Court. Each invokes the Civil Rights Act of 1957, upon the United States Constitutional basis of the Ninth Amendment and the Declaration of Independence.[1]

The other federal question, "Impairment of Jurisdiction of This Court", cites this Court to establish its jurisdiction to grant the petitions.

Both New York State and Connecticut invoked the power of confinement for an indeterminate period, including lifetime.

Therefore the federal questions are new and substantial.[2]

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[1] Please note the six questions set forth in each petition, pages 5 and 6, and analyzed in sequence, pages 16 to 34.

[2] Those substantial questions answer appellee's conclusion on pages 7 and 8, "no substantial federal question...."

Medico-legal, statutory construction.

New York State cites its Mental Hygiene Law, sections 20 and 34 (9), as authority for the state's policy to claim discretion of the Commissioner or Court to withhold from the patient his own record. That policy places on the patient the burden of predicting the illegalities of that record without knowing its contents. That record

(Footnote continued, next page)

(Footnote 2, Continued)

presents the state's use of statutory authority under the state police power to detain the patient for an indeterminate period including lifetime.

Appellee defends that established policy upon the basis of the state legislative and judicial history to date. Petitioner challenges those provisions of the state statute for violation of the Ninth Amendment and the Declaration of Independence.

Original federal jurisdiction.

The District Court did not claim to exercise discretion in acceptance or denial of jurisdiction, but held against jurisdiction on the ground that no Constitutional question is presented. Please note page C-6 of the petitions.

The vital issue of right of access to federal courts is analyzed by the petitioner on pages 21 and 22 of the petitions.

Appellee's five citations of cases of habeas corpus present a different issue, with the additional question of the patient's health.

BECAUSE A SUBSTANTIAL FEDERAL QUESTION IS PRESENTED UNDER THE NINTH AMENDMENT AND THE DECLARATION OF INDEPENDENCE, THIS COURT SHOULD GRANT PLAINTIFF'S PETITION FOR MANDAMUS OR CERTIORARI.

Respectfully,

Henry Merritt Farnum,
Petitioner

70 W. 46th Street,
New York 36, New York.

May 28, 1958